PRESERVED

App. F. IX-4

1944.
(January)

File No. 216.44.
Serial Nos. 1-6.

Previous References.
Rev—38.39.1-6.

Later References.

GENERAL AND REVENUE SECRETARIAT

Serial Nos. Nil

Part B for January 1946.

SUBJECT

Arrival of Palayama and others of Hemagare village, Arrival Taluk regarding resumption of S. Nos. 71-2 of the village by the Local Officers

To R. 5722-3 dated 16.12.46.
the Jamnagar Commissioner
Jodhpur. Bangalore-Bl-
States that the acceptance of the
gift of the Lando under dispute may be
cancelled leaving the donors or their heirs the
option to obtain possession lawfully and
to obtain if they so desire free from all
restrictions terms
Conditions terms

Nil

G.R.S. APP F, III—1]

Mwrai Appeal No 20 of 1944-45.

GENERAL AND REVENUE SECRETARIAT.

(Mwr)

NOTES. File No. 216-44-

FILE HEADING.

Appeal of Balarama and others of Hennagara Village, Anekal Taluk regarding the resumption of S. Nos. 71-2 of the Village by the local officers.

FROM

Balarama, Bamburga, Lachma, Munellaga, Rama and Lingo, residents of Hennagara Village, Jigani Hobli, Anekal Taluk, through his Counsel.

No. — Dated 26th April 1945 Received 26th April 1945

Diary No. 5059/44 Encls. 3 Spare copies — Serial No. 1—2.

BRIEF ABSTRACT OF LETTER

Praying that the order of the M.C. issued with Memo No. P.1-C 40/44-45, dated the 8th March 45, rejecting their appeal against the order of the D.C., Bgl., in Mwr. C. 1322/40-45, dated the 23rd December 1944, directing resumption of S. Nos. 71-72 of Hennagara Village, Anekal Taluk and the recovery of [illegible] of gulte pertaining to these lands, may be set aside, and that pending decision on their appeal further proceedings in respect of the lands may; [illegible]

NOTES AND ORDERS.

"T" From the Endorsement No. P.1-C 40/44-45, dated 8th March 1945 issued to the parties against which the present appeal is preferred, it is seen that their appeal has been rejected by the M.C. as the matter had been decided by him in Appeal No 7 of 38-39. Neither a copy of the M.C's order in Appeal No. 7 of 38-39 nor of the D.C's order, which is sought to be set aside now, has been produced.

"S" The unauthenticated copy of the petition presented to the M.C. enclosed to the P.R.D. it is stated that S. Nos. 71 and 72 of Hennagara Village in Anekal Taluk

NOTES—First Sheet

Appeal of Balarama Vier of Ramagana, Anekal Taluk,
S.Nos. 71-72 of the Village. 5053-4/R.

Misl File No. 216 ——————— of 1944-45 | General and Rev Secretariat Page 2

to the ancestors of the present appellants for doing earth work to the tank in the Village, and that after the tank was transferred to the charge of the Maramath Dept. these inam lands were enfranchised and confirmed to the grantee on full assessment. In a civil suit it was decreed that the right title and interests of Belliga, a descendant of the original grantee, in these two lands might be sold and one Venkataramanappa purchaser of the interest in these lands is stated to have gifted away them to the temple of Sri Nageeshwara Swamy at the Village.

(2) The parties owning these lands do not seem to have been dispossessed of them. The matter having been under correspondence, the S.D.O.s proposal to resume the two S.Nos to Govt. and to recover arrears of cutta due from the parties was approved by the D.C. This subject came up before the M.C. in Appeal (No. 7 of 38-39) and how it was disposed of is not known. The M.C. has however rejected the second appeal on the same subject. The parties urge that his latest order may be set aside. This is for consideration.

(3) As regards the stay application it is not adequately stamped and it may perhaps be returned to the party for remedying the deficiency.

Subd: (4) [illegible]

(5)

(6) Draft Said for appl. Endt. is for signature.

Appeal of Balarama. etc Hennagara. Anekal Taluk, re. the resumption
S.Nos. 71-72. of the village.

5053-4/R √ 1952/R

Continuation Sheet. Mem. File No. 216 ——— of 1944-45 Page.3

[3] Issued No-R-7089, dated the 16th May 1945

To - The Muzrai Commissioner in Mysore.

Calls for a report with the records.

Svo Ar 16.5.45

A. Letter No. M.1-C. 1123/44-45, dated the 1st November 1945

From the Muzrai Commissioner in Mysore, stating that as S.Nos 71 and 72 of Hennagara Village, Anekal Taluk stand in the name of the temple of Sri V-geetheswaraswamy, and as the lessees fail to pay the stipulated rent, the D.C., Bangalore District, has to issue orders for the resumption of the lands and that as the Co. tenure of the parties has no force their application may be rejected

(2) The facts of the case may be stated briefly as follows -.

(a) Old field numbers 19, 52, 71, 79 and 97, of Hennagara Hobli, Anekal Taluk measuring 1 K-2 K-12 P and assessed at Rs-34-14-7) were dry lands granted as ~~personal~~ inams for rendering Kereikandy service in respect of Amani Hennagara Tank. As the service was considered unnecessary due to changed conditions, the inam lands were enfranchised by levying a quit-rent of Rs. 17/, and confirmed as personal inams in favour of Muniya and Lakshmamma, on 16.7.1897. The lands then bore S.Nos. 24, 25, 71, 72 and 83 (dry) and 57 (wet) in all measuring 18 acres 29 guntas and bearing an assessment of Rs. 33/2.

S.No.	Class	Area	Assmt
71 -	Garden	0-35	2-4-0
	Dry	9-07	4-12-0
72.		3-15	7-0-0

(10) S.Nos. 71-2. Seem to have come to the share of Lachma by some agreement between the two inamdars Lachma's son Bola who succeeded as the person in possession of these lands. had two sons Belliga and Lachma. Bola and Lachma jointly sold a portion of S.No. 71 measuring 0-35 guntas and leased out the remaining extent of this S.No along with S.No. 72 to one Pullappa. Bola and his son Lachma having died, Pullappa filed a suit against Belliga for the recovery of the money due to him in respect of the lease with the

Honnagara Village, Anekal Taluk, endowed to temple there

C F 69] 1953/R

Continuation Sheet. Misc. File No. / Current No. 216 of 1944-45 Page. 4

result that these lands were decreed to be sold. In the civil Court sale one Muthkadappa offered the highest bid and the lands were knocked down to him. Subsequently, however, the sale-purchaser having failed to pay up the balance of the purchase money within the stipulated period, the sale was cancelled and the amount already paid by him forfeited. In the meanwhile, Belliga borrowed money from one Narasanna on the security of these lands and discharged the decretal amount due to Pullappa. These events must have taken place between 1898 and 1905. The exact dates are not known as the records pertaining to that period are not available.

(11) Narasanna filed a suit against Belliga for the recovery of the loan amount, and in pursuance of a Court decree, the lands were again put up for sale on 22.7.1909 and the decree holder himself purchased them.

(12) To complicate matters, Lachma had, as it was subsequently discovered, mortgaged these properties except the portion of S.No.71 sold to Pullappa, to the Agricultural Bank of Bidamagappa and this transaction ended in another civil court decree against the mortgagor. After his death his sons Balarama and Munielliga, sold them away to one Venkataramanappa for Rs. 400/- on condition that the purchaser should clear the Bank dues amounting to Rs 390/- approximately. The sale deed was got registered on 1.4.1912 i.e., nearly 8 years after Narasanna purchased them in the civil Court sale. On 20.12.1912 the Khata of the lands was made in favour of Narasanna in pursuance of the decree. Venkataramanappa who also purchased the same properties by means of the sale deed got his name entered in the

Special notice register in 1914.

(13) The natural outcome of these incidents was a dispute between Narasamma and Venkataramanappa regarding the ownership of the lands. The matter went up to civil court and ended in a compromise between the disputants, each agreeing to enjoy half the area of the lands involved. Finally, in 1924 both the parties gifted their respective share of the lands to the Dharmakarthas of Sri Nageshwara Swamy Temple at Hennagara, for the benefit of the temple, through a gift-deed executed and registered on 4-2-1924 in the Sub-Registrar's Office. After Narasamma's death the Khata of the lands was made in the name of Puttappa, one of the Dharmakarthas of the temple, but, later on, as the villagers objected to this, the lands were finally transferred to the Khata of the temple on 11-3-1932.

(14) The seemingly endless disputes relating to these lands provided Belliga, who was the Neerganti of the village, and his nephew, Balarama (one of the present appellants), a very good opportunity to continue in possession of the lands and they exploited it to the fullest extent possible to their advantage. In fact, the gift of the lands to the temple was the result of the failure of the donors to obtain possession of the lands because the Neerganti and his nephew were troublsome persons, who evaded the local officers when they visited the village to obtain possession and, due to their rough and unreasonable behaviour, became notorious in the village.

(15) The extent of 0-38 guntas in S.No.71 sold to Puttappa now stated to be in the possession and enjoyment of his grandson Muniramaiya who is paying the assessment due thereon. The present contention relates to the remaining extent of lands.

(16) One of the Dharmakarthas, Sarva Bhatta, tried to have

WD 02149—GPB—20,000

lands cultivated Balarama and his uncle Belliga started a row and obstructed cultivation. This led to a criminal case being instituted against them in the court of the (Second) First Class Magistrate, Bangalore (Crl. Case No. 106 of 1931-32). The Accused having agreed to come to terms with the complainant, the case ended in a compromise under which the Accused were to continue as permanent tenants of the lands paying a rent of Rs. 80/- per annum to the Temple.

(17) But the tenants defaulted and refused to pay the gutta due to the temple in accordance with the agreement. Sarvabhatta petitioned the Amildar on 12-12-1936 praying for the assumption of the management of the properties and the recovery of arrears of rent from the defaulters. Whereupon the Amildar sought the orders of the D.C. Bangalore Distt., through the S.D.O., Doddaballapur Sub., regarding the advisability of filing a suit against Belliga and his nephew for enforcing the terms of the compromise. The D.C considered that it was not necessary to file a suit against the defaulters, as the lands had been formally gifted to the temple and registered in its name, and that the parties should be treated only as lessees and recommended that the acceptance of the endowment might be formally sanctioned so as to enable the recovery of the arrears under Section 12 of the Act. The M.C. sanctioned the recommendation of the D.C. in his order No. R.Dis. 146/37-38, dated the 18th November 1937.

(18) In accordance with the orders of the D.C. action was taken to recover the arrears of gutta from Belliga and his Co-tenant resulting in the attachment of their moveable properties. An appeal preferred to the D.C. against the order of the local officers, claiming absolute right over the lands

preferred by them was dismissed in Misc App No. 5 of 37-38, dated the 14th June 1938. A second appeal (preferred to the M.C.) was also dismissed (M.C's order No. Appeal 7 of 38-39, dated 10.3.39)

(5) In the meanwhile, the Amildar took action to lease out the lands in question and one Narayanappa (alias Narayana-Samiah) of Hennagara having offered a bid of Rs. 50/2 p.a. at the lease-sale held by the Amildar on 12.8.1938, the lands were leased out in his favour, the lease having been confirmed by the S.D.O. on 5.9.1938 (Memo. No. B2-C-257/38-39). The lessee credited the first years rent in advance, as per terms of lease, and obtained only token possession of the lands. In spite of repeated attempts made by the R.I and the Amildar to obtain possession from Belliga and his henchman, it was not possible for the lessee to take possession of the lands and his attempts to cultivate the lands, made Belliga more aggressive and troublesome. So, Narayanaswamappa began to urge for the refund of the gutta amount deposited by him as he could not assume possession of the lands. Warnings administered by the Police to Belliga did not improve the situation, a 'mutchalika was obtained by him not to interfere with the action taken under the rules by the local authorities in respect of these lands.

(6) Further action was taken to recover the arrears of gutta due from Belliga and some more movable properties were attached whereupon he issued a notice to Govt. threatening to file a suit to recover damages sustained by him by the action of the local officers, on the plea that the transfer of lands to the temple as a gift was fradulent in as much as he continued in possession. After obtaining a report from the M.C and examining the case, Govt. issued a reply that H.

WD 02139—GIAB—20 000 26-4-15

Suit might be awaited (Letter No. P 5784/Law 38-39-6, dated 15-5-1941)

(21) As the request of Narayanaswamappa, the nominal lessee, for the refund of the gutta was not granted he continued to urge for it. The lands were again notified for lease, but in the sale held on 28.5.1943 by the Amildar no bid was received, because no one ventured to accept the lease as the question of obtaining actual possession of the properties was beset with difficulties because of the threatening attitude of the Meerganti who heretofore refused to part with these lands. Hence the Amildar reported to the D.C. recommending the refund of the gutta amount deposited by Narayanaswamappa as he could not obtain possession and derive any benefit by the lease and the resumption of the lands and their cultivation through the village officers. The D.C. passed orders disposing of several questions relating to the case (Misc. C. 1322/44-45, dated 23.12.44) as indicated below.

(i) He held that as the two S. Nos (71-2) undisputedly belonged to Sri Nagareshwara Swamy Temple at Hennagara possession and enjoyment of these lands by Belliga and others were unauthorised and that they had no manner of title to these properties since they had obtained considera-tion in respect of the properties in each of the two sepa-rate transactions which terminated in the gifting away of the properties to the temple.

(ii) He approved the proposals of the Amildar to refund the gutta deposited by the lessee and to resume the

lands as well as to get them cultivated by the Village Officers for and on behalf of Govt.

(iii) The crops on the lands were ordered to be sold and credited to the temple funds

(iv) The movable of Belliga and other disputants were directed to be sold and the proceeds thereof to be adjusted towards the arrears of gutta due from them.

(v) Further action was ordered to be taken to recover the balance of arrears due from them, and to make them realise that as Village Servants they should not defy the enforcement of several orders issued by the local officers, by penalising them for insubordination.

(22) Against the above order of the D C. Belliga's nephew Balarama and son Gambuga, and Munellaga a relative of his appealed to the M.C. As the question had already been disposed of in his office in the form of an appeal No 7/38-39, the appeal of Balarama etc., was treated by the M C as a Mis. Petition and an endorsement was issued to the parties declining to treat their application as an appeal and to stay further proceedings. (No P1-C 40/44-45 dated 8-3-1945).

(23) The application before Govt now is against the M. C's order dated 8-3-45. The present contention of the parties are :—

(a) The endowment of the lands to the temple is illegal as the donors had lost their title to them by not taking possession,

(b). Section 19 of the Act cannot be applied to this case as the lands are not devadaya inam,

(c) The rights acquired by the donors had become barred by limitation as the appellants had [illegible]

Appeal of Balarama and others re: 8
Inclial Jahir endowed to Sri Nageshwaraswamy
1953/R.

Mwk File No. 346 ——————— of 1944-45

General and Secretariat

Serial No.

OFFICE OF THE MINT FOR REVENUE
No. 4330
Date 2.12.46

(32) Heard Mr R. Venkataramiah for the appellants.

(33) Considering the complicated nature of the proceedings & the controversy that prevails in regard to the title for possession & enjoyment of the lands, it seems best that the acceptance of the gift, which besides being dubious in nature, is likely to involve the temple in unnecessary, costly & protracted litigation may be cancelled & the donors, if living or their heirs requested to obtain lawful possession of the lands, if necessary by taking appropriate legal steps & after securing such possession regarding the lands to the temple, if they so desire, free from all complications the Muzrai Commissioner is requested to take action accordingly.

Sd/- R. Gowda
2/12/46

(34) Two drafts sd.

Sd/- 3
3/12/46 4/12/46

Sd/- 2/12
2/12/46

B. Record.
Sd/-
16/12/46

TYPING SECTION
4 DEC 1946
CEN. & REV. SECTT.

(35) Issue
Sd/-
4/12

Issued No. R.5792-3, dated 16.12.46
To - The Asst. Commr. with records
D.C. Bangalore Dist.
States that the acceptance of the gift of the lands under dispute may be cancelled, returning the donors or their heirs the options of obtaining possession lawfully, and regift them, if they so desire, free from all complications.

5
6

Endorsement No. R.5794 of even date
To the appellants first their counsel.
Informs them of the above order
Memo No. R.5725 of even date.
To the J.C. 7 Dis. Copy of the Endt.

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Muzrai Appeal No. 20 of 1944-45.

Appellant		Respondents.
	- vs -	
Balarama & Others.		Government.

Subject.

Resumption of S.Nos. 71-2 of Hennagara village Anekal Taluk, endowed to Shri Nageshwaraswamy temple at the place.

Facts of the case.

(1) Old filled numbers 19, 52, 71, 79 and 97 of Hennagara Jigani Hobli, Anekal Taluk, measuring 1k - 2k - 1.25 P and assessed at Rs 34-14-7 were dry lands granted as inams for rendering Kerebandy service in respect of Amani Hennagara Tank. As the service was considered unnecessary due to changed conditions, the inam lands were enfranchaised by levying a quit rent of Rs 17/- and confirmed as personal inams in favour of Muniya and Lakshma, on 16-7-1897. The lands then bore S.Nos. 24, 25, 71, 72 and 83 (dry) and 57 (wet) in all measuring 18 acres 29 guntas and bearing an assessment of Rs 33/-.

(2) S.Nos. 71-2 seem to have come to the share of Lachma by some agreement between the two inamdars. Lachma's son Bola who succeeded as the person in possession of these lands had two sons Belliga and Lachma. Bola and Lachma jointly sold a portion of S.No. 71 measuring 0-38 guntas and leased out the

remaining....

remaining extent of this S.No. along with S.No. 72 to one Pullappa. Bola and his son Lachma having died, Pullappa filed a suit against Belliga for the recovery of the money due to him in respect of the lease, with the result that these lands were decreed to be sold. In the Civil Court sale one Mukkadappa offered the highest bid and the lands were knocked down to him. Subsequently, however, the sale purchaser having failed to pay up the balance of the purchase money within the stipulated period, the sale was cancelled and the amount already paid by him ferfeited. In the meanwhile Belliga borrowed money from one Narasanna on the security of these lands and discharged the decretal amount due to Pullappa. These events must have taken place between 1898 and 1905. The exact dates are not known as the records pertaining to that period are not available.

(3) Narasanna filed a suit against Belliga for the recovery of the loan amount, and in pursuance of a Court decree, the lands were again put up for sale on 22-7-1909 and the decree holder himself purchased them.

(4) To complicate matters, Lachma had, as it was subsequently discovered, mortgaged these properties except the portion of S.No. 71 sold to Pullappa, to the Agricultural Bank of Bidanaguppe and this transaction ended in another Civil Court decree against the mortgager. After his death his sons Balarama and Munielliga, sold them away to one Venkataramanappa for Rs 400/-, on condition that the purchaser should clear the Bank dues amounting to Rs 390/- approximately. The sale deed was got registered on 1-4-1912

i.e., ...

i.e., nearly 3 years after Narasanna purchased them in the Civil Court Sale. On 30-12-1912 the khate of the lands was made in favour of Narasanna in pursuance of the decree. Venkataramanappa who also purchased the same properties by means of the sale deed got his name entered in the special notice register in 1914.

(5) The natural outcome of these incidents was a dispute between Narasanna and Venkataramanappa regarding the ownership of the lands. The matter went up to Civil Court and ended in a compramisse between the disputants. Each agreeing to enjoy half the area of the lands involved. Finally in 1924, both the parties offered their respective share of the lands to the Dharmakarthas of Sri Nageshwara Devaru Temple at Hennagara, for the benefit of the temple through a gift deed executed and registered on 4-2-1924 in the Dt. Registrar's Office. After Narasanna's death the khate of the lands was made in the name of Puttappa, one of the Dharmakarthas of the temple, but, later on, as the villagers objected to this, the lands were finally transferred to the khate of the temple on 11-3-1932.

(6) The seemingly endless disputes relating to these lands provided Belliga, who was the Neerganti of the village, and his nephew, Balarama (one of the present appellants), a very good opportunity to continue in possession of the lands and they exploited it to the fullest extent possible to their advantage. In fact, the gift of the lands to the temple was the result of the failure of the donors to obtain possession of the lands because the Neerganti and his nephew were troublesome persons

who evaded the local officers when they visited the village to obtain possession and, due to their rough and unreasonable behaviour, became notorious in the village.

(7) The extent of 0-38 guntas, in S.No. 71 sold to Pullappa is now stated to be in the possession and enjoyment of his grandson Muniramaiya who is paying the assessment due threon. The present contention relates to the remaining extent of lands.

One of the Dharmakarthas, Sarva Bhatta, tried to have the lands cultivated. Balarama and his uncle Belliga started a ~~x~~ row and obstructed cultivation. This led to a criminal case being instituted against them in the court of the First Class (Second) Magistrate, Bangalore (Crl.Case No.106 of 1931-32). The accused having agreed to come to terms with the complainant, the case ended in a compromise under which the accused were to continue as permanent tenants of the lands paying a rent of Rs 80/- per annum to the Temple.

(8) But as the TENANTS defaulted and refused to pay the gutta due to the temple in accordance with the agreement Sarva Bhatta petitioned the Amildar on 12-12-1936 praying for the assumption of the management of the properties and the recovery of arrears of rent from the defaulters. Whereupon the Amildar sought the orders of the Deputy Commissioner, Bangalore District, through the S.D.O., Dodballapur Sub Division, regarding the advisability of filing a suit against Belliga and his nephew for enforcing the terms of the compromise. The Deputy Commissioner considered that it was not necessary to file a suit against the defaulters as the lands had been formall gifted to the temple and registred in its

name ....

name and that the parties should be treated only as lessees and recommended that the acceptance of the endowment might be formally sanctioned so as to enable the recovery of the arrears under Section 12 of the Act. The Muzrai Commissioner sanctioned the recommendation of the Deputy Commissioner in his order No. R.Dis.146/37-38 dated the 18th November 1937.

(9) In accordance with the orders of the Deputy Commissioner action was taken to recover the arrears of gutta from Belliga and his co-tenant resulting in the attachment of their moveable properties. An appeal preferred to the Deputy Commissioner against the orders of the local officers, claiming absolute right over the lands prefdfred by them was dismissed in Muz. App. No. 5 of 37-38 dated the 17th June 1938. A second appeal (preferred to the Muzrai Commissioner) was also dismissed. (M.C.'s order No. Appeal 7 of 38-39 dated 10-3-39)

(10) In the meanwhile, the Amildar took action to lease out the lands in question and one Narayanappa (alias Narayanasamiah) of Hennagara having offered a bid of Rs 50/- per annum at the lease sale held by the Amildar on 12-8-1938 the lands were leased out in his favour, the lease having been confirmed by the Sub Division Officer on 5-9-1938 (Memo No. B2-C.257/38-39). The lessee credited the first year's rent in advance as per terms of lease and obtained only token possession of the lands. In spite of repeated attempts made by the Revenue Inspector and the Amildar to obtain possession from Belliga and his , it was not possible for the lessee to take possession of the lands and his attempts to cultivate tha lands, made Belliga more aggressive and troublesome. So Narayanasamappa began to urge for the refund of the gutta amount deposited

by .....

by him as he could not assume possession of the lands. As warnings administered by the Police to Belliga did not improve the situation, a mutchalika was obtained by him not to interfere with the action taken under the rules by the local authorities in respect of these lands.

(11) Further action was taken to recover the arrears of gutta due from Belliga and some more moveable properties were attached. Whereupon he issued a notice to Government threatening to file a suit to recover damages sustained by him by the action of the local officers on the plea that the transfer of lands to the temple as a gift was fradulent in as much as he continued in possession. After obtaining a report from the Muzrai Commissioner and examining the case, Government issued a reply that the threatened suit might be awaited (letter No. P. 5784/Law 38-39-6 dated 15-5-41).

(12) As the request of Narayanasamappa, the nominal lessee, for the refund of the gutta was not granted, he continued to urge for it. The lands were again notified for lease, but in the sale held on 28-5-43 by the Amildar no bid was received because no one ventured to accept the lease as the question of obtaining actual possession of the properties was beset with difficulties because of the threatening attitude of the Neerghatti who tenaciously refused to part with these lands. Hence the Amildar reported to the Deputy Commissioner recommending the refund of the gutta amount deposited by Narayanasameppa as he could not obtain possession and derive any benefit by the lease and the resumption of the lands and their cultivation through the village officers. The Deputy Commissioner passed orders disposing of several questions relating to the

case.....

case (Muz.C.1322/44-45 dated 23-12-44) as indicated below:-

(i) He held that as the two S.Nos. (71-2) undisputedly belonged to Sri Nagareshwaraswamy temple at Nennagara possession and enjoyment of these lands by Belliga and others were unauthorised and that they had no manner of title to these properties since they had obtained consideration in respect of the properties in each of the two separate transactions which terminated in the gifting away of the properties to the temple.

(ii) He approved the proposals of the Amildar to refund the gutta deposited by the lessee and to resume the lands as well as to get them cultivated by the village officers for an on behalf of Government.

(iii) The crops on the lands were ordered to be sold and credited to the temple funds.

(iv) the moveable of Belliga and other disputents were directed to be sold and the proceeds thereof to be adjusted towards the arrears of gutta due from them.

(v) further action was ordered to be taken to recover the balance of arrears due from them and to make them realise that as village servants they should not defy the enforcement of several orders issued by the local officers, by penalising them for insubordination.

(13) Against the above order of the D.C., Belliga's nephew Balarama and son Sambuga and Munellaga a relative of his appealed to the Muzrai Commissioner. As the question had already been disposed of in his office in the form of an appeal No. 7/38-39, the appeal of Bukka Balarama etc., was treated by the M.C. as a Mis. Petition and an endorsement was issued to the parties declining ....

declining to treat their application as an appeal and to stay further proceedings (No. Pl.C.40/44-45 date 8-3-1945).

The application before Government now is against the M.C.'s order dated 8-3-45. The present contention of the parties are:-

(a) The endowment of the lands to the temple is illegal as the donors had lost their title to them by not taking possession;

(b) Section 19 of the Act cannot be applied to this case as the lands are not devadaya inam;

(c) The rights acquired by the donors had become barred by limitation as the applicants had adverse possession for over 12 years;

(d) The applicants cannot be treated as lessees since they have not executed a formal lease deed agreeing to pay regularly any stipulated rent; and

(e) As the proceedings based on the RAJNAMA (of 16-12-32) were illegal, Government have no right to recover rent at Rs 80/- per annum from them.

(A) In submitting the records pertaining to the subject the M.C. States that the contention of the petitioners has no force, in as much as they have no valid grounds to substantiate their claims and that if at all they have any, it is open to them to substantiate such claims in a court of law.

Under Secretary's Note.

(B) The facts have been explained in the above Appeal Note. The main contention of the petitioners is that the gift is not complete as there has been no transfer of.....

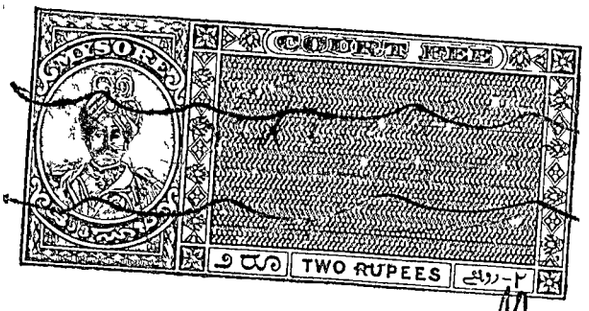
of possession and that they had been in adverse possession for over 12 years. Some of the petitioners have not been parties to the several transactions and therefore they cannot bind them. This contention seems to have some force. The gift should not have been accepted when there were so many complications and the title was not clear enough. It seems best that Government keep themselves aloof from such transactions. It is gathered that the gift was a result of the donor's inability to get possession.

(16) In the alternative, as decided in the Notice of Govt. the position may be ignored and the parties left to litigate in a civil court.

Secretary's Note.

(17) From the complicated course of dealings by several persons and failure to obtain or retain peaceful possession it is fairly clear that there is a competition amogst the interested parties to steal and march over others. The gift deeds have conveyed ineffect the right to litigate if at all they are valid. In the circumstances disclosed by the office note, it is neither advisable nor advantageous for Government to fight the battle of others. A final decision as to what is now feasible may be reached after hearing the parties.

Orders.



Muz. 216-44-1

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF

MYSORE, BANGALORE.

Muzrai Appeal 20 of 1944 - 1945

Appellants:- (1) Balarama son of Lachma
(2) Sambuga son of Belliga
(3) Lachma brother of (2)
(4) Munellaga son of Munillaga
(5) Rama } minors by their next
(6) Linga } friend Munellaga (4)

(versus)

Respondent:- Government of Mysore

UNDER SECTION 38(2) OF THE RELIGIOUS AND CHARITABLE INSTITUTIONS ACT:--

The appellants beg to prefer this appeal against the order of the Learned Muzrai Commissioner in Mysore in No. P1-40/44-45 dated 8th March 1945 as per endorsement herewith produced, rejecting the appeal as against the order of the Deputy Commissioner, Bangalore District ordering the resumption of survey numbers 71 and 72 of Hennagara village, Anekal Taluk belonging to the appellants and recovery of gutta arrears from the appellants by attachment of their moveables etc. Copies of the order of the Deputy Commissioner, Bangalore District, is produced herewith

The facts of the case have been fully narrated in the appeal memo presented to the Muzrai Commissioner, a copy of which is herein enclosed. The appellants beg to urge the same grounds of appeal here also and state the following additional grounds:

1) The Learned Muzrai Commissioner should have given a

hearing before finally disposing of the ~~month~~ matter.

2) The Learned Muzrai Commissioner erred in law in rejecting the appeal on the only ground that the matter had been disposed of in Muz appeal 7 of 38-39 as the subject matter in issue in that appeal was quite different from the subject matter of the present appeal and all the interested parties are now before the court for the first time.

3) The Learned Muzrai Commissioner erred in law in disposing of the matter merely on correspondence especially as it is one involving intricate points of law and the legal effect of numerous documents or the rights of parties.

4) The appellants cannot in law be evicted even on the terms of his grants as they are said to be permanent tenants therein

5) The order of the Learned Muzrai Commissioner is highly prejudicial to the appellants and is opposed to law and facts admitted and proved.

Wherefore the appellants respectfully pray that the records may be called for, perused and the order under appeal set aside.

Bangalore City,
24/4/1945
26-

Venkata Rao Raja
Advocate for appellants.

IN THE COURT OF THE MUZRAI COMMISSIONER IN MYSORE

BANGALORE.

Muzrai Appeal No of 44-45

Appellants:-(1) Balarama son of Lachma
(2) Sambuga son of Belliga
(3) Munellaga, son of Munallaga
All residing at Hannagara, Toties by profession Jigani Hobli, Anekal Taluk

(versus)

Respondent:- Government of Mysore.

UNDER SECTION 38 OF THE MYSORE RELIGIOUS AND CHARITABLE INSTITUTIONS ACT:-

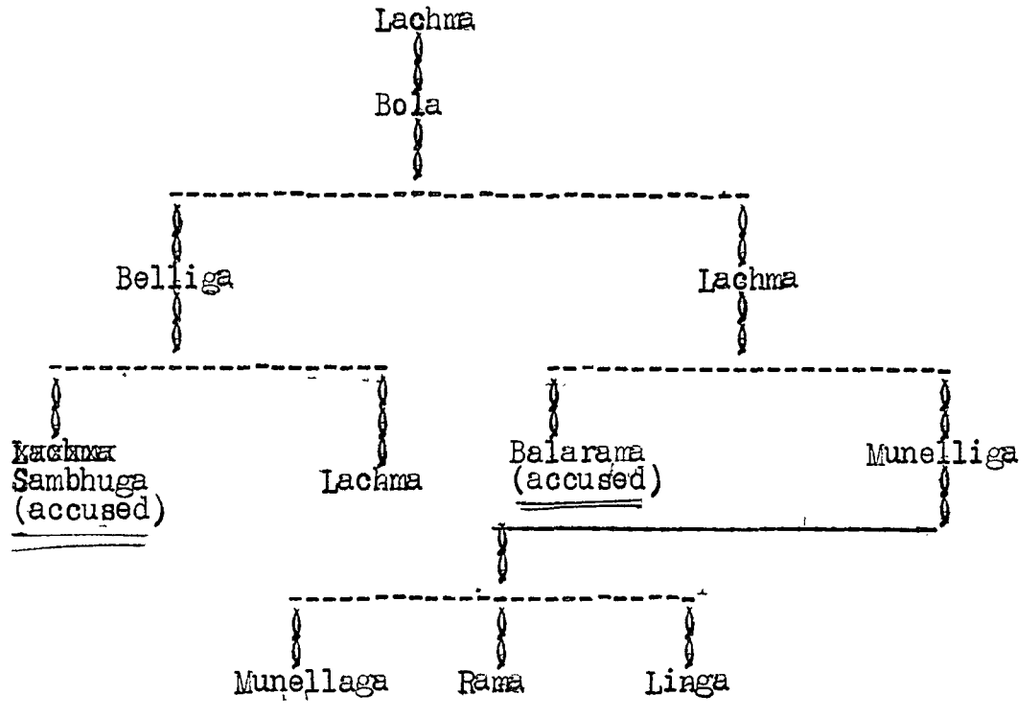
The appellants abovenamed beg to prefer this appeal against the order of the Deputy Commissioner, Bangalore District in No. Muz C. 1322 of 1944 - 45 dated 27/12/1944 ordering among other matters the resumption of survey numbers 71 and 72 of Hennagara village in Jigani Hobli, Anekal Taluk belonging to the appellants and their cultivation by the village officers and also recovery of Gutta arrears from the appellant by attaching their moveables etc.

A copy of the order is herein enclosed:--

(facts of the case)

Survey numbers 24,25,71 and 72 were the Konana Inamti lands granted to the forefathers of the appellants for doing earth work to the Hennagara tank. After a seperate Maramath agency was appointed for getting the Tank works done these inam lands became unnecessary and they were enfranchised and confirmed to the grantees or their representatives for full assessment. The original grantees

grantees of these inam lands were Muniya and Lachma as as per inam title deed No.567/132. Survey number 24 and 25 went to Muniya's share and survey number 71 and 72 to Lachma's share. The survey numbers 71 and 72 which are the subject matter of this appeal have been in undisturbed possession and enjoyment of the members of - Lachma's family as shown below from the time or grant.



These lands are being enjoyed in portions by Lachma and Sambuga sons of Belliga and also by Balarama and Munellaga's son's.

One Narasappa purchased in court auction the right, title and interest of Belliga in these lands in execution of an exparte money decree and one Venkataramanappa a nominal purchaser of the interest in these lands of Balarama and Munellaga gifted these lands to Sri Nageswara Temple in Hennagara village in 1923, but possession was not given to the donee. As the temple could not get any right under the deed of gift whchout possession the Dharmakarta filed a criminal case in C. C.No.106 of 31-32 before the second Magistrate, Bangalore atainst Balaram and Sambuga and the case ended in compromise. According

According to the compromise filed in the court the accused viz., Balarama and Munellaga are said to have agreed to pay gutta at Rs. 80/- per year for survey numbers 71 and 72. The persons are not aware of the condition. Th is a fraudulent entry made by the complainant who are dharmakartas of the temple. The compromise was never acted on and the appellant never gave lease amount. They are continuing in possession. These lands could not be taken possession of by the above two persons Naranappa and Venkataramana (temple) and they made a gift of these lands in favour of Sri Nageswara Devaru at Hennagara but the appellants never gave up possession. The endowment of this property was latterly got accepted by the Muzrai Commissioner. Even after this endowme t the temple authorities never got the possession of the lands. The appellants continued in possession of these lands up to present moment. The appellants never executed any lease deed nor are they aware of the deed of gift. Onthe basis of the compromise petition filed by the complainant and two accused in that case in which the two accused Balarama and Sambuga are said to have agreed to give cash gutta of Rs.80/- per year, the Taluk authorities began to demand gutta from the appellant and took coercive steps for the recovery of the arrears of gutta. The appellant did not pay anything. The lands were leased out to one Narayanaswamy for an annual gutta of Rs. 50/- for five years and the lessee never got possession and the learned Deputy Commissioner had sanction refund of a purchase money as the lessee never got possession. The lands were then ordered to be cultivated by the village shanbhogue and the patel and even they could not take possession. The appellants bullocks were attached several times for gutta arrears but the attachment was raised on the representation of the appellants. This year orders have been issued for harvesting the ground-nut crop raised by the appellants by the village patel. The appellant petitioned the Sub Division officer

officer protesting against the attachment. All the records had been sent up for orders on several points involved in the case and the Deputy Commissioner passed the above order. Hence the appeal.

(Grounds)

The whole proceedings adopted in this case are irregular, illegal and abinitio void. The officers have no powers to recover the gutta or to attach the crops raised by the appellant It is not known under what provision of law the learned Deputy Commissioner has passed this order. He assumes in the order that the lands are the property of the temple which is not the case. The lands are the private property of the appellants and they continue in undisturbed possession of the appellants from time immemorial and they have been paying kandayam of these lands.

2) The endowment was offered by persons who lost their title to the property by not taking possession. As they failed to get possession of the lands through civil court and as they lost whatever right they had acquired owing to efflux of time and adverse possession of the appellants they gave this property as endowment to the temple and it was accepted on a misleading or false report of the local officers that the temple had got possession. The very fact that the lessee was not put in possession and even independently he could not get possession and the lease amount had therefore been ordered to be refunded to the lessee goes to show that the temple never got possession. Any endowment of land without possession is not valid and does not in law create any right in favour of the temple. There is absolutely no case for the temple and the temple has to sue the appell ant for possession of the property. This is the legal position

3) This is not Devadaya inam and it is only private property. The only section under which the Muzrai Officer can proceed in this case is section 19 of the Mysore Religious and charitable institutions act and under this section it must be a temple property which has been wrongfully alienated or transferred by way of sale transfer mortgage etc and ~~from~~ conditions exist the Muzrai officer within six years from the date of such alienation may give a notice to the alienee or transferee and hold a summary enquiry etc.

In the first place, this is not a temple property because it was got as an endowment from persons who had lost all their rights. If these rights had to be perused, the temple had to fight for those rights in the civil court as the temple got such rights only from persons who say they got them through civil court. In this case Narasanna one of the donors purchased the property in civil court auction which was not followed up by possession.He never got possession His decree became time barred. The other donor Venkataramanappa obtained a formal sale deed - without consideration and without possession. Nor did he sue for possession within the statutory period of 12 years. In the first case, the decree was in 1908-1909 and the sale deed was in March 1912. The gift of these lands to the temple was in 1924. In both the cases the rights acquired by the donors had become time barred before the gift was made. The gift being thus infructuous the temple has acquired no right in this property. This is not thus the property of the temple.

Secondly the property is not in the wrongful possession of the appellant. This is time immemorial possession with the appellants. If the temple had got possession of them and lost it, section 19 could apply if proceedings are instituted within six years of wrongful possession by the appellants. This is not the case. All these points could have been discussed if enquiry had been held by the Sub Division officer under section 19 of the

of the Mysore Religious and charitable institutions Act. No such enquiry was conducted. All procedure adopted in the case are on the basis that the possession is with the temple which is not at all the case. All these proceedings such as lease, attachment and ordering their cultivation by the village shanbhogue and patel are illegal.

4) There is absolutely no authority for the Government to lease these lands as temple property. There is no lease deed executed by the appellants. A clause inserted in the Rajinama filed by the parties in a criminal case is made much of and taken as a lease executed by the appellants in favour of the temple and only two persons have signed this. This can never be taken as a lease. If the property is to be a permanent lease there should be a lease deed executed on a proper stamp paper and duly registered. In the absence of these legal formalities the insertion of a clause in a Rajinama petition cannot be taken as a lease in law. It therefore follows that proceedings based on the rajinama are illegal. There is thus no right to Government to recover cash gutta at Rs.80/- per year. The Learned Deputy Commissioner has not considered this legal aspect of the question. He has not taken even legal opinion in the matter.

5) The order of the learned Deputy Commissioner is otherwise illegal, inequitable and opposed to the facts of the case.

Wherefore the appellant prays that the records may be called for and perused and the order of the learned Deputy Commissioner set aside.

Bangalore City
13/2/1945

C/S.
Narasimhachariar
Advocate
Appellant.

Order of the Deputy Commissioner, Bangalore

Order.

Survey numbers 71 and 72 belong undisputedly to Sri Nageswaraswamy temple at Hennagara village, possession and enjoyment of these two numbers by Belliga and others are therefore unauthorised, moreover, they have no manner of title to the lands as they have obtained consideration in respect of these two lands in each of the two seperate transactions which ended with the gifting away of these survey numbers in favour of the above temple by the purchasers Narasanna and Venkataramappa

The Sub Division officer's proposal to resume these two survey numbers to Government and action taken by the Amildar accordingly are approved.

2) The lands should continue to remain in the possession of the ~~xxxxxxxx~~ patel and shanbhogue until further orders.

3) The crops on the lands for the current year should be immediately sold in public auction and the proceeds adjusted towards the gutta due from Belliga and others.

4) The lands should be got cultivated by the village officers(Patel and Shanbhogue) for and on behalf of Government from year to year and the sale realisations of crops for further years credited to the temple funds after defraying the kandayam and other incidental charges.

5) The moveables of Belliga and others now attached should be immediately sold and the proceeds adjusted towards adjustment of the afrears of gutta due from them.

6) Attachment of other properties of the defaulters for recovery of the balance of arrears of gutta and other arrears of kandayam on the lands should be expedited and the result of action taken reported.

7) The refund bill for Rs. 50/- is sanctioned and returned for further needful action

8) As the action of the Neeraganti Belliga and his fa members are unauthorised and as they have been constantly ddefying the enforcement of the several orders passed in the various offices, some exemplary disciplinary action against them is called. The question of removing them from Nirgantiship may be considered as a measure of discipline.

9) The Amildar will submit a seperate report through the S.D.O on the result of action taken on the above directions with the connected records and reference nas to be made to the Government Pleader as to the further steps to be taken for the enforcement of the terms of the rajinama and as to a permanent lease to the takrardars would be binding on Government as per the same rajinama.

The connected records accompany

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24.4.45.

No. P. - 40/44-45

8th March 1945.

Endorsement.

With reference to their petition dated 14-2-1945 filed through their Counsel, Mr. G. Srinivasaiya, Pleader, Bangalore, praying for setting aside the order of the Deputy Commissioner, directing the attachment of their moveables for the arrears of gutta amount on S.Nos.71 and 72, of Hemmegere Village, endowed to Sri Nageswaraswami Temple at the place, and permitting the Amildar, Anekal Taluq, to get the lands cultivated by the Village Patel and Shanbhogue, Balarama and others, through their Counsel, are informed, that their appeal c a n n o t b e admitted and the stay order sought for cannot be granted, as the matter in appeal petition has been decided in this court, in App.No.7/38-39. Their petition has, however been forwarded to the Deputy Commissioner, Bengal re District, for a report.

for Mysore Commissioner.

1. Balarama
.....
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} Vs {
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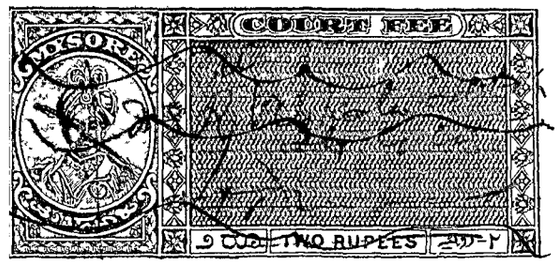


Before the Government of
H.H. the Maharaja of Mysore
ಸರ್ಕಾರಕ್ಕೆ ಕೋರ್ಟಿಗೆ.

1944-1945. ನೇ Misc Appeal. ನಂ.....

ವಾದಿ ಯಾ ಅರ್ಜಿದಾರ್ ಪ್ರತಿವಾದಿ ಯಾ ಅಪ್ಪೋನೆಂಟ್

1. Balarama	} Vs. {	Government

R. Venkatarao Subbaraya BA BL Advocate
ಮುll ರಾll ~~ಫೀಡರ್ ಜಿ. ಶ್ರೀನಿವಾಸಯ್ಯ~~ನವರಿಗೆ
Applicants. ಬರೆಸಿಕೊಟ್ಟ ವಕಾಲತ್‌ನಾಮಾ.

ಈ ಮೊಖದ್ದಮೆಯಲ್ಲಿ ತಾವು ನನ್ನ ಪರವಾಗಿ ಆಖೈರುವರಿಗೂ ಕೋರ್ಟ್‌ನಲ್ಲಿ ವಿವಾದ ಜರುಗಿಸುವುದಕ್ಕೂ, ನನ್ನ ಪರ ಆಗುವ ಎಲ್ಲಾ ವಿಧವಾದ ಆರ್ಡರನ್ನೂ, ಡಿಕ್ರಿಯನ್ನೂ ಜಾರಿಕ್ರಮ ನಡೆಸಿ ಹಣ ವೆಸೂಲು ಮಾಡಿಕೊಳ್ಳುವುದಕ್ಕೂ, ನನಗೆ ಕೋರ್ಟ್‌ನಿಂದ ಸಲ್ಲಬೇಕಾಗಿರುವ ಡಿಕ್ರಿ ಮೊಬಲಗು, ಶಿಲ್ಕು ಮೊಬಲಗು ಸಹ ಪಡೆಯಲಿಕ್ಕೂ, ದಸ್ತೈವಜು ವಗೈರೆಗಳನ್ನು ವಾಪಸು ಪಡೆಯಲಿಕ್ಕೂ ಸಹ ತಮಗೆ ಈ ಮೂಲಕ ಸಂಪೂರ್ಣ ಅಧಿಕಾರ ಕೊಟ್ಟಿಧೇನೆ. ಅಲ್ಲದೆ ತಾವಾಗಲಿ ಯಾ ತಮಸೋಸ್ಕರ ಮತ್ಯಾವ ಲಾಯರಾಗಲಿ ಡಿಟೋ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ನಡೆಸುವ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನೂ ನಾನು ಖುದ್ದು ಇದ್ದು ನಡೆಸಿದಂತೆ ಒಪ್ಪಿಕೊಳ್ಳಲು ಬದ್ಧನಾಗಿ ಇಧೇನೆ.

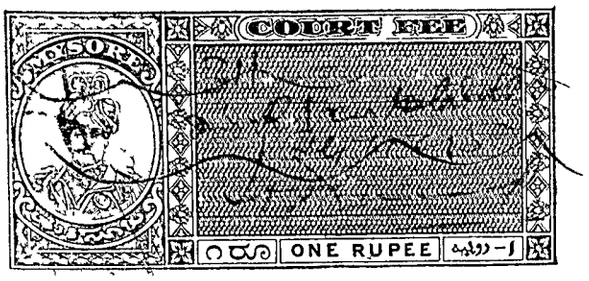
ಬೆಂಗಳೂರು,
ತಾll 24-4-45

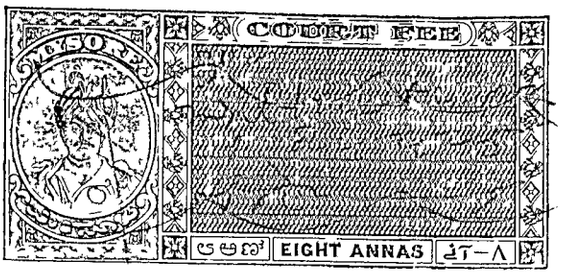
ಈ ಮೊಕ್ತಾರುನಾಮೆ ಕೊಟ್ಟವರು ನನಗೆ ಪರಿಚಯ ಸ್ವರಾಗಿ ಸಮಕ್ಷಮ ರುಜು ಮಾಡಿರುತ್ತಾರೆ.

Accepted
Venkatarao Subbaraya
Advocate
Applicants.

ಇಂಡಿಯನ್ ಪ್ರೆಸ್, ಬೆಂಗಳೂರು

ಈ ಮೊಕ್ತಾರುನಾಮೆ ಅಂಗೀಕರಿಸಿ ಇಧೇನೆ.





R5054

Mwz. 216-44-2

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF

MYSORE BANGALORE

Muz Appeal of 1944-45

Appellants:-- Respondent:--

1) Balarama and four others (Vs) Government

(Stay Petition)

1) Persuant to the order of the Deputy Commissioner, Bangalore District, the Taluk Amildar has already got attached Ragi, Groundnuts etc grown by the appellants and the Patel and shanbhogue are entrusted with the same. The appellants are put to irre parable damage as the only means of their support is thus attached.

2) The Amildar has issued strict orders to the Revenue Inspector to take possession of the lands in the meanwhile. The appellants are entitled to the lands and they are not liable to be evicted.

3) They have today filed an appeal before the Benign Government and the grounds of appeal clearly show the justness of their claim. If a stay order is not issued directing stay of further proceedings by retaining possession of lands by appellants till the disposal of the appeal, they are likely to be evicted. If the attached produce is not given to them, they have no source of existence. For these reasons it is humbly submitted that a stay order may be issued directing the Amildar not to disturb appellants' possession pending this appeal and

and not to sell the attached moveables if possession of the same could not be given.

Bangalore City,
24/4/1945
26.

A Venkata Rathnaya
Advocate for appellants.

Section. Mwz
File No. 216-44
Serial No. 3

No.R.7089
Encl. One.
Dated the 16th May 1945

To- The Mysore Commissioner in Mysore, Bangalore.

Sir,

Subject: Appeal regarding the resumption of S.Nos. 71-2 of Hennegara Village, Anekal Taluk, gifted to Sri Nageshwara Devara Temple there.

In forwarding herewith, in original, petition registered as No. 5053/R - Mwz - 216-44-1, dated the 26th April 1945, received from Balarama, etc., of Hennagara, on the above subject, I am directed to request that a detailed report on all the points urged therein may be submitted with the entire connected records of your office and those of the subordinate offices for the orders of Govt.

2. The petition may be returned with your reply.

I have etc.,

For Gen. Secy. to Govt.

Office of the Muzrai Commissioner in Mysore
Bangalore, 1st November 1945.

R. 1953

Queries 1-4

The Secretary to Government,
Law Department,
Bangalore.

Sir,

Subject.- Appeal petition of Balarama and others re; resumption of S.Nos.71/2 of Hennagara villagara village, Anekal Taluk, gifted to Sri Nageshwaraswamy Temple.

With reference to your letter No.R.7089/Muz-216-44-3 dated 16-5-45 on the above subject, I have the honour to state that the two S.Nos. 71 and 72 have been recognised as the property of the temple as they were accepted as gift in favour of Sri Nageshwaraswamy Temple (vide this office order No. R.Dis.146/37 dated 18-11-37) and the khate of these lands stands in the name of the temple. Coercive steps taken by the Deputy Commissioner for the recovery of arrears of gutta amount due from the lessee one Nirganti Belliga were also confirmed in this office Muzrai Appeal No.7/38-39 dated 10-3-39. Against these orders, Belliga threatened Government that he would be filing a civil suit and the Government replied in Law Secretary's letter No.P.5784/Law.38-39-6 dated 15-5-41 that the threatened suit might be awaited. No suit seems to have been filed so far.

After the lands were gifted to the temple the Dharmakartha and lessees got themselves entangled in a criminal case which ended in a compromise according to which the lessees should pay a fixed rent of Rs.80/- per annum to the temple. As the lessees defaulted to pay even this fixed gutta, the Deputy Commissioner in his order No.C.1322/44-45 dated 2-12-44 directed the sale of the attached moveables of the lessees and adjustment of the proceeds towards the arrears due from them. Against this order of the Deputy Commissioner, Balarama and others filed an appeal before this office urging that the lands were not temple property that the terms of compromise in a criminal case cannot be taken as a lease agreement and that in the absence of legal formalities, Government have no right to recover gutta at Rs.80/- per annum, etc. The Deputy Commissioner has resumed the lands from the possession of the appellants who are defaulters. Their alleged right over the lands may have to be established in a court of law when they had threatened Government previously to file a suit. The Deputy Commissioner has however stated that the Government pleader would be consulted as to the further steps to be taken to enforce the terms of the Rajinama and as to whether a permanent lease to the takarardars would be binding on Government. As the matter had already been decided in this office appeal No.7/38-39, the petition was not admitted as an appeal, but was treated as a miscellanious application and a report was called for from the Deputy Commissioner. An endorsement was accordingly issued to the appellants. It is against this endorsement that the appellants have preferred an appeal before Government. The contention of the appellants has no force, in as much as they have no valid grounds to substantiate their claims, and if at all they have any, it is open to them to establish their claims in a court of law. In these circumstances, I think that the appellants have no case and that their application may therefore be rejected.

The entire connected records as detailed in the margin* are herewith sent for favour of reference . The petition received with your letter is enclosed.

*D.Dis.M.C.1322/44-45 of D.C., Bangalore Dist.
Al Dis97/41-42 of M.C.'s Office
App.27/37-38 -do-
App. 7/38-39 -do-
Pl 40/44-45 -do-

I have the honour to be,
Sir,
Your most obedient servant,

Muzrai Commissioner.

SR.

R. 4824 & 15.11.46

Original

ನೋಟೀಸ್.

ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಶ್ರೀಮತ್ ಮಹಾರಾಜರವರ ಗವರ್ನ್‌ಮೆಂಟ್ ~~ಫೈನಾನ್ಷಿಯಲ್~~ ಲಾ
(ಮುಜರಾಯಿ) ಸೆಕ್ರಟೆರಿಯವರ ಆಫೀಸಿನಿಂದ.

1944—1945 ನೇ ಇಸವಿಯ ಮುಜರಾಯಿ ಅಪೀಲು ನಂಬರು.....20.....

ವಾದಿ

ಬಿ. ಎಸ್. ಮತ್ತಿಕಟ್ಟಿಯವರು.

ಪ್ರತಿವಾದಿ

ಸರ್ಕಾರ.

ವಿಷಯ.

ಹೊನ್ನೇಕಟ್ಟೆ ತಾಲ್ಲೂಕು ಹಿರಿಯೂರು ಗ್ರಾಮದ ನೆಲಸಾಗೇಶ್ವರ ದೇವಾಲಯದ ಜೀರ್ಣೋದ್ಧಾರ ಸಂಬಂಧ

ಮೇಲೆಕಂಡ ಅಪೀಲು ವಾದಿಗಳ ಪರ ಗೆ

ಶ್ರೀಯುತ ಆರ್. ವೆಂಕಟ ಸುಬ್ಬಯ್ಯನವರು, ಬಿ.ಎ. ಎಲ್.ಟಿ.,
ಅಡ್ವೊಕೇಟರು, ಬೆಂಗಳೂರುನಗರ

ಮುಜರಾಯಿ ಕಮಿಷನರವರ ಹುಕುಮಿನ ಮೇಲೆ ದಾಖಲುಮಾಡಿ ಇರುವ ಮೇಲ್ಕಂಡ ಅಪೀಲು 1946 ನೇ ಇಸವಿ ನವೆಂಬರು ಮಾಹೆ 29 ನೇ ತಾರೀಖು ~~ಶುಕ್ರವಾರ~~ ದಿವಸ ಬೆಂಗಳೂರು ಮೊಕ್ಕಾಮಿನಲ್ಲಿ ವಿಚಾರಣೆ ಮಾಡಲ್ಪಡುವುದರಿಂದ, ಆ ದಿವಸ ಮಧ್ಯಾಹ್ನ ಒಂದು ಗಂಟೆಗೆ ನೀವು ಈ ಕಚೇರಿಗೆ ಹಾಜರಾಗಬೇಕು.

ಬ ತಾರೀಖು 14 ನೇ ಮಾಹೆ ನವೆಂಬರು 1946. ಇಸವಿ

ಮೊಕ್ಕಾಂ ಬೆಂಗಳೂರು.

By Order,
B R Srinivasamurthy
for Secretary to Govt.
~~*Financial*~~ *Law* (*Muzrai*) *Dept.*

WD 913—GPB—1000—27-11-33

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

MUZRAI APPEAL NO.20 of 1944-45

Appellants		Respondent
Balarama and others	-VS-	Government.

Subject: Resumption of S.Nos.71-2 of Hennagara village, Anekal Taluk, Endowed to Shri Nageshwara Swamy Temple at the place

-:o:-

FACTS OF THE CASE

Old filed numbers 19,52,71,79 and 97 of Hennagara Jigani Hobli, Anekal Taluk, measuring 1k - 2k - 1.25 P. and assessed at Rs.34-14-7 were dry lands granted as inams for rendering Kerebandy sefvice in respect of Amani Hennagara Tank. As the service was considered unnecessary due to changed conditions, the inam lands were enfranchaised by levying a quit rent of Rs.17 and confirmed as personal inams in favour of Muniya and Lakshma, on 16-7-1897. The lands then bore S.Nos.24,25,71,72 and 83 (dry) and 57 (wet), in all measuring 18 acres 29 guntas and bearing an assesment of Rs.33/-.

2. S.Nos. 71-2 seem to have come to the share of Lachma by some agreement between the two inamdars. Lachma's son Bola who succeeded as the person in possession of these lands had two sons Belliga and Lachma. - Bola and Lachma jointly sold a portion of S.No.71 measuring 0-38 guntas and leased out the remainingextent of this S.No. along with S.No.72 to one Pullappa. Bola and his son Lachma having died, Pullappa filed a suit against Belliga for the recovery of the money due to him in respect of the lease, with the result that these lands were decreed to be sold. In the Civil Court sale one Mukkadappa offered the highest bid and the lands were knocked down to him. Subsequently, however, the sale purchaser having failed to pay up the balance of the purchase money within the stipulated period, the sale was cancelled and the amount already paid by him forfieted. In the meanwhile Belliga borrowed money from one Narasanna on the security of these lands and discharged the decretal amount due to Pullappa. These events must have taker place between 1898 and 1905. The exact dates are not known as the

records pertaining to that period are not available.

3. Narasanna filed a suit against Belliga for the recovery of loan amount, and in pursuance of a Court decree, the lands were again put up for sale on 22-7-1909 and the decree holder himself purchased them.

4. To complicate matters, Lachma had, as it was subsequently discovered, mortgaged these properties except the portion of S.No 71 sold to Pullappa, to the Agricultural Bank of Bidanaguppe and this transaction ended in another Civil Court decree against the mortgagor. After his death, his sons Balarama and Munielliga, sold them away to one Venkataramanappa for Rs.40?/-, on condition that the purchaser should clear the Bank dues amounting to ?.390/- approximately. The sale deed was got registered on 1-4-1912 i.e., nearly 3 years after Narasanna purchased them in the Civil Court Sale. On 30-12-1912 the khata of the lands was made in favour of Narasanna in pursuance of the decree. Venkataramanappa who also purchased the same properties by means of the sale deed got his name entered in the special notice register in 1914.

5. The natural outcome of these incidents was a dispute between Narasanna and Venkataramanappa regarding the ownership of the lands. The matter went up to Civil Court and ended in a compromise between the disputants, each agreeing to enjoy half the area of the lands involved. Finally, in 1924, both the parties offered their respective share of the lands to the Dharmakartas of Sri Nageshwara Devaru Temple at Hennagara, for the benefit of the temple through a gift deed executed and registered on 4-2-1924 in the Dy. Registrar's Office. After Narasanna's death the khata of the lands was made in the name of Puttappa, one of the Dharmakarthas of the temple, but, later on, as the villagers objected to this, the lands were finally transferred to the khata of the temple on 11-6-1938.

6. The seemingly endless ~~dispu~~ disputes relating to these lands provided Belliga, who was the Neerganti of the village, and his nephew, Balarama (one of the present appellants) a very good oppor-

opportunity to continue in possession of the lands and they exploited it to the fullest extent possible to their advantage. In fact, the gift of the lands to the temple was the result of the failure of the donors to obtain possession of the lands because the Mecrganti and his nephew were troublesome persons who evaded the local officers when they visited the village to obtain possession and, due to their wrongful and unreasonable behaviour, became notorious in the village.

7. The extent of 1-38 guntas, in S.No.71 sold to Pullappa is now stated to be in the possession and enjoyment of his grandson Muniramaiah who is resisting the assessment due thereon. The present contention relates to the remaining extent of lands.

8. One of the Dharmakarthas, Sarva Bhatta, tried to have the lands cultivated. However, one Bellina started a row and obstructed cultivation. This led to a criminal case being instituted against them in the court of the First Class (Second) Magistrate, Bangalore (Crl.Case No.106 of 1931-32). The accused having agreed to come to terms with the complainant, the case ended in a compromise under which the accused were to continue as permanent tenants of the lands paying a rent of Rs.60/- per annum to the Temple.

9. But as the Tenants defaulted and refused to pay the gutta due to the temple in accordance with the agreement, Sarva Bhatta petitioned the Amildar on 12-12-1936 praying for the assumption of the management of the properties and the recovery of arrears of rent from the defaulters. Whereupon the Amildar sought the orders of the Deputy Commissioner, Bangalore District, through the S.D.O. Dodaballapur Sub Division, regarding the advisability of filing a suit against Bellina and his nephew for enforcing the terms of the compromise. The Deputy Commissioner considered that it was not necessary to file a suit against the defaulters as the lands had been formally gifted to the temple and registered in its name and that the parties should be treated only as lessees and recommended that the acceptance of the endowment might be formally sanctioned so as to enable the recovery of the arrears under Section 12 of the Act. The Mysore Commissioner sanctioned the recommendation of the Deputy Commissioner in his order No.R.Dis.146/37-38 dated

the 18th November 1937.

10. In accordance with the orders of the Deputy Commissioner action was taken to recover the arrears of cutta from Belliga and his co-tenant resulting in the attachment of their moveable properties. An appeal preferred by them to the Deputy Commissioner against the orders of the local officers, claiming absolute right over the lands ~~preferred by them~~ was dismissed in Muz. Ap.No.5 of 37-38 dated the 17th June 1938. A second appeal (preferred to the Murrai Commissioner) was also dismissed. (C.C.'s Order No. Appeal 7 of 38-39 dated 10-3-39.)

11. In the meanwhile, the Amildar took action to lease out the lands in question and one Narayanappa (alias Narayanaswamiah) of Hennasandra having offered a bid of R.50/- per annum at the lease sale held by the Amildar on 12-8-1938 the lands were leased out in his favour, the lease having been confirmed by the Sub-Division Officer on 5-9-1938 (Memo No.82-C.257/38-39). The lessee credited the first year's rent in advance as per terms of lease and obtained only token possession of the lands. In spite of repeated attempts made by the Revenue Inspector and the Amildar to obtain possession from Belliga and his henchmen, it was not possible for the lessee to take possession of the lands and his attempts to cultivate the lands, made Belliga more agressive and troublesome. So Narayanaswamappa began to urge for the refund of the cutta amount deposited by him as he could not assume possession of the lands. As warnings administered by the Police to Belliga did not improve the situation, a mutchalika was obtained by him not to interfere with the action taken under the rules by the local authorities in respect of these lands.

12. Further action was taken to recover the arrears of cutta due from Belliga and some more moveable properties were attached. Whereupon he issued a notice to Government threatening

to file a suit to recover damages sustained by him by the action of the local officers on the plea that the transfer of lands to the temple as a fixed gift was fradulent in as much as he continued in possession. After obtaining a report from the Muzrai Commissioner and examining the case, Government issued a reply that the threatened suit might be awaited (letter No.P.5784/Law 38-30-6 dated 15-5-41).

13. As the request of Narayanaswamappa, the nominal lessee, for the refund of the gutta was not granted, he continued to urge for it. The lands were again notified for lease, but in the sale held on 28-5-43 by the Amildar no bid was received because no one ventured to accept the n lease as the question of obtaining actual possession of the properties was beset with difficulties because of the threatening attitude of the Neerghanti who tenaciously refused to part with these lands. Hence the Amildar reported to the Deputy Commissioner recommending the refund of the gutta amount deposited by Narayanaswamappa as he could not obtain possession and derive any benefit by the lease and the resumption of the lands and their cultivation through the village officers. The Deputy Commissioner passed orders disposing of several questions relating to the case (Muz.C.1322/44-45 dated 23-12-44) as indicated below:-

(i) He held that as the two S.Nos.(71-2) undisputedly belonged to Sri Nagareshwaraswamy temple at Hennagara possession and enjoyment of these lands by Bellina and others were unauthorised and that they had no manner of title to these properties since they had obtained consideration in respect of the properties in each of the two separate transactions which terminated in the gifting away of the properties to the temple.

(ii) He approved the proposals of the Amildar to refund the gutta deposited by the lessee and to resume the lands as well as to get them cultivated by the village officers for and on behalf of Government.

(iii) The crops on the lands were ordered to be sold and credited to the temple funds.

(iv) The moveable of Bellina and other disputents were directed to be

sold and the proceeds thereof to be adjusted towards the arrears of gutta due from them.

(v) Further action was ordered to be taken to recover the balance of arrears due from them and to make them realise that as village servants they should not defy the enforcement of several orders issued by the local officers, by penalising them for insubordination.

14. Against the above order of the Deputy Commissioner Belliga's nephew Balarama and son Sambuga and Kunellaya a relative of his appealed to the Huzuri Commissioner. As the question had already been disposed of in his office in the form of an appeal No.7/38-39. the appeal of Balarama etc., was treated by the Huzuri Commissioner as a Miscellaneous Petition and an endorsement was issued to the parties declining to treat their application as an appeal and to stay further proceedings (No.Pl.C.40/44-45 dated 8-3-1945).

15. The application before Government now is against the D.C.'s Order dated 8-2-45.

O R D E R No. R.5722-3/Misc 216-44-5

Dated, Bangalore, the 16 Dec. 1946.

The case came up for hearing on the 29th November 1946 when Mr. R. Venkatasubbaiah for the appellants was present and heard.

2. Considering the complicated nature of the proceedings and the controversy that prevails in regard to the title for possession and enjoyment of the lands, it seems best that the acceptance of the gift, which besides being dubious in value, is likely to involve the temple in unnecessary, costly and protracted litigation, may be cancelled and the donors, if living or their heirs requested to obtain lawful possession of the lands, if need be by taking suitable legal steps and after securing such possession, regift the lands to the temple, if they so desire, free from all

complications. The Kuzrai Commissioner is requested to take action accordingly.

R Bala Subramaniyaz

for SECRETARY TO GOVERNMENT,
Law Department.

To:

The Kuzrai Commissioner in Mysore, with the connected records

" Deputy Commissioner, Bangalore District.

PSF/4.

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JECT..... Mwz. .....

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Diary No. of letter replied to.....1952/R.....

General and Revenue Secretariat.

(Mwz. Section)

the 3rd December *1946* .

Date of issue.....16/12/.....1946.

Mr K Balasubramanyam
Signed by:.....

Section. Mwzrai

File No. 216-44.

Serial No. 5

Proceedings of the Government of His Highness the Maharaja of Mysore.

Mwzrai Appeal No. 20 of 1944-45.

~~Read~~
Appellants — Balarama and others.

vs.

Respondent — Government.

Subject:— Resumption of S.Nos. 71-2 of Hennagara Village, Arakal Taluk endowed to Shri Nageshwara Swamy Temple at the place.

Facts of the case:—

As in paras 1 to 15 of the typed notes

Order thereon.—No. R. 5722-3

Dated the 16th December 1946.

The case came up for hearing on the 29th November 1946 when Mr. R. Venkatasubbaiah for the appellants was present and heard.

2. As in para 33 (orders of the Minister)

K.B. 4/12/46.

for Secretary to Government,
Law Department.

May this be—

(i) printed ?

(ii) treated as a Standing Order ?

(iii) published in the Gazette, English Part ?

(iv) translated ?

(v) placed at the disposal of the Press ?

(iv) published in the Gazette, Kannada Part ?

List of Enclosures:—

(1) Vernacular file ending with the 2.30 p.m. report from the R.D.O (No A2 PR 246/44-45, to the D.C)
(2). D.C's office file No. D.Dis Mwz-C. 1322/44-45 dated 10.1.45
(3) M.C's Office file No. App 27/37-38.
(4) " " App. 7/38-39.
(5) " " D.Dis 97/41-42.
(6) " " P.I-40/44-45

P.T.O.

To - The Muzrai Commissioner in Mysore with the connected records.

Deputy Commissioner. Bangalore District.

-x-

Section Muzrai

File No. 216-44

Serial No. 6

No. R. 5724

Encls.

Dated the 16th December 1946.

ENDORSEMENT.

Granted to :- Balarama, Sambega, Lachma, Muncllaga, Rama, Linga } residents of Hennagara, Anekal Taluk. C/o. Mr. R. Venkata Subbaiya, B.A.,B.L., Advocate, Bangalore city.

Muzrai Appeal No. 20 of 1944-45

The appellants above named are hereby informed that the Acceptance of the gift of the lands under dispute, viz. S.Nos 71-2 of Hennagara Village, ~~endowed~~ to Sri Nageshwara Swamy temple at the place has been ordered to be cancelled, leaving ~~and~~ the donors or their heirs the option to obtain lawful possession of the said lands and regift them to the temple, if they so desire, free from all complications.

List of Enclosures

By order.

Copied by

For Secy to Govt.

Examined by

Law Deptt

R. 5725 dt 16/12

Copy w.c. to the M.C. in continuation of G.O No. R 5722-3/Muzrai-216-44-5, dated the 16th December 1946. on the subject for information

B.W.D. 04162—GPB—60,000—23-10-41

B.M.R. 46.

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Law D

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat,

No R.5724
Muz 216-44-6

Dated, Bangalore, 16 December 1946

ENDORSEMENT.

Granted to: Balarama, ambura, Lachma, Munchaga, Dana, Linga, } residents of Hennagara, Hoska Taluk

c/o Mr. T. Venkata Subbaiya, B.A., B.L. Advocate, Bangalore City.

MUZRAI APPL. NO.26 of 1944-45

The Appellants above named are hereby informed that the acceptance of the gift of the lands under dispute viz.S.Nos.71-5 of Hennagara village, to Shri Durgaparameswary temple at the place has been cancelled, leaving the donors or their heirs the option to obtain lawful possession of the said lands and regift them to the temple if they so desire, free from all complications.

By Order,

(Sd) S Ramakrishna Raj.
Under Secretary to Government,
Law Department.

Memo No. R.5725 dt 16.12.46.

Copy w/c. to the Muzrai Commissioner in continuation of G.O. No.R.5722-3/Muz.216-44-5 dated the 16 December 1946, on the subject for information.

By Order,

for Secretary to Government,
Law Department.